

**Senate File 392 - Introduced**

SENATE FILE 392  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 258)

**A BILL FOR**

1 An Act relating to sexual misconduct by a peace officer with  
2 offenders and juveniles in the peace officer's custody, and  
3 providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 709.16, Code 2019, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 4. a. Any peace officer who engages in a  
4 sex act with an individual, including a juvenile, in the peace  
5 officer's custody commits a class "D" felony.

6 b. For purposes of this subsection:

7 (1) "Custody" means the detention of a person by lawful  
8 authority or process.

9 (2) "Peace officer" means a peace officer defined in section  
10 801.4, subsection 11, paragraph "a", "b", "c", "f", "g", "h",  
11 "i", or "j".

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with  
14 the explanation's substance by the members of the general assembly.

15 This bill relates to sexual misconduct by a peace officer  
16 with offenders and juveniles in the peace officer's custody,  
17 and provides penalties.

18 The bill provides that any peace officer who engages in a  
19 sex act with an individual, including a juvenile, in the peace  
20 officer's custody commits a class "D" felony.

21 The bill defines "custody" as the detention of a person by  
22 lawful authority or process.

23 The bill defines "peace officer" to include sheriffs  
24 and their regular deputies who are subject to mandated law  
25 enforcement training, marshals and police officers of cities,  
26 peace officer members of the department of public safety,  
27 parole officers, probation officers, special security officers  
28 employed by board of regents institutions, conservation  
29 officers, employees of the department of transportation who are  
30 designated as peace officers by resolution of the department,  
31 employees of an aviation authority designated as peace officers  
32 by the authority, and other persons as may be so designated by  
33 law.

34 A class "D" felony is punishable by confinement for no more  
35 than five years and a fine of at least \$750 but not more than

1 \$7,500.

2 A person who violates the bill is also subject to a special  
3 sentence under Code section 903B.2. A special sentence is a  
4 punishment in addition to the punishment for the underlying  
5 criminal offense by committing the person into the custody of  
6 the director of the Iowa department of corrections for a period  
7 of 10 years. A person serving a special sentence begins the  
8 sentence as if on parole or work release but the sentence is  
9 subject to a revocation of release for up to two years for a  
10 first revocation and five years for any second or subsequent  
11 revocation.

12 A person who violates the bill is classified as a tier II sex  
13 offender under Code section 692A.102(1)(b)(12) if the victim  
14 is 13 years of age or older or as a tier III sex offender under  
15 Code section 692.102(1)(c)(28) if the victim is under 13 years  
16 of age, and is required to register as a sex offender under  
17 Code section 692A.103.